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85-00464

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AUG 6 1985

Honorable Mary Jane Caylor
Superintendent
Huntsville City School System
P. O. Box 1256
Huntsville, AL 35807

Boards of Education - Teachers -
Leave, Annual and Sick

Huntsville City Board of
Education proposed personnel
leave policy discussed.

Dear Ms. Caylor:

We are in receipt of your recent request for an opinion from the Attorney General regarding the Huntsville City Board of Education proposed leave policy. Your questions are:

1. Whether the proposed personal leave policy is in compliance with Code of Alabama 1975, §16-8-26 (1984 Cum. Supp.)
2. Whether the proposed leave policy is in conflict with an Attorney General's opinion to Dr. Paul Hubbert dated December 6, 1973.

Your proposed policy is as follows:

C. Personal Leave

1. Personal leave of up to three (3) days per year for teacher personnel will be granted. Teachers will not suffer a loss of pay for the first two (2) days. If a third day of leave is taken, an amount equal to the cost

of a substitute teacher will be deducted from the teacher's salary whether or not a substitute is employed. No reason for the leave is required, but, college testing for admission, graduation, seminar attendance, etc., is included under personal leave.

In order to facilitate program planning, teachers taking personal leave days should notify the principal or administrative supervisor as far in advance as possible.

The proposed leave policy is in compliance with Code of Alabama 1975, §16-8-26 (1984 Cum. Supp.). This code section authorizes a board of education to grant personal leave of up to five (5) days annually. The proposed plan of granting three (3) days is within the statutory guidelines. Furthermore, this section also provides that "The board shall enact policies providing for uniform administration of personal leave and shall determine whether the leave is to be with part pay, full pay or without pay" Therefore, the board's policy of deducting the cost of a substitute teacher for the third day of leave is in accord with Code of Alabama 1975, §16-8-26 (1984 Cum. Supp.).

Your second question involves the December 6, 1973, Attorney General's opinion to Dr. Paul Hubbert which states in part:

"It is my opinion that since the subsection states that personal leave is to be granted upon request of the teacher and administered by the State Board of Education and by local school boards under procedures governing sick leave when personal leave is requested by a teacher, no rule or regulation differing from those regulating the granting of sick leave such as requiring prior notice may be employed to determine whether or not the teacher is allowed personal leave."

Your proposal stated that ". . . teachers taking personal leave days should notify the principal or administrative supervisor" (emphasis added). This is not in conflict with our above quoted opinion which states that prior notice cannot be required in determining personal leave.

Honorable Mary Jane Caylor
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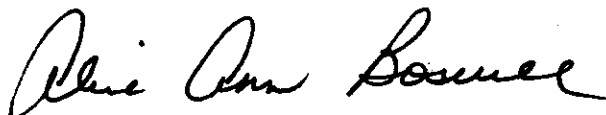
It is, therefore, the opinion of this office that your proposed policy is in compliance with Code of Alabama 1975, §16-8-26 (1984 Cum. Supp.) and not in conflict with our prior opinion to Dr. Paul Hubbert dated December 6, 1973.

I hope that this response fully answers your questions. If, however, we may be of further service, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

By-

A handwritten signature in cursive script, appearing to read "Alice Ann Boswell".

ALICE ANN BOSWELL
ASSISTANT ATTORNEY GENERAL

CAG/AAB:jd